



04-20-05 *Office petition* *DFC* *\$*

SPECIAL PROCEDURES SUBMISSION IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of) Docket No: Temp2
Leonard Reiffel)
Serial No.: 10/018,713) Examiner: Winakur, Eric Frank
Filed: December 12, 2001) Art Unit: 3731
For: Thermometer Implants)
Date: April 19, 2005)

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P.O. Box 1450
Alexandria, VA 22131-1450

PETITION TO WITHDRAW AN APPLICATION FROM ISSUE UNDER 37 CFR 1.313(C)

Dear Sir:

Enclosed is a check in the amount of \$130.00 for the petition for withdrawal from issue.

The undersigned attorney petitions the Director to withdraw the subject application from issuance even though the issue fee has been paid. Applicant has good and sufficient reasons why withdrawal is necessary because of the unpatentability of one or more claims.

An inadvertent typographical error occurred in the last amendments that changed certain claims from dependent to independent form and these amendments rendered at least one claim to be unpatentable. More specifically, claims 4, 6 and 8 includes the superfluous phrase "the thermometer implant", which makes the meaning of at least one of these claims unpatentable under 35 USC §112.

The proposed **Amendments** begin on page 2 of this document.

The **Remarks** begin on page 7 of this document.

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1-2 (Canceled)

3. (Previously Presented) Thermometer implants comprising a thermometer body, the thermometer body enclosing a channel and a bulb, the channel being terminated by the bulb at an end, the channel and the bulb containing a fluid, the fluid expanding and contracting along the channel to a fluid length which is functionally related to a target temperature of the bulb at a target time, the thermometer body being adapted to be located in a subject body from where the fluid length is not visible at the target time, and thermometer body properties and fluid properties together making possible measurement of the fluid length outside of the subject body, the thermometer implant further comprising a sequent thermometer body, the sequent thermometer body enclosing a sequent channel and a sequent bulb, the sequent channel being terminated at an end by the sequent bulb, the sequent bulb and the sequent channel containing a sequent fluid, the sequent fluid expanding and contracting along the sequent channel to a sequent thermometer fluid length which is functionally related to a sequent target temperature of the sequent bulb at a sequent target time, the sequent thermometer body being adapted to be located in the subject body from where the sequent fluid is not visible at the sequent target time, and sequent thermometer body properties and sequent fluid properties together making possible measurement of the fluid length outside of the subject body.

4. (Currently Amended) Thermometer implants comprising a thermometer body, the thermometer body enclosing a channel and a bulb, the channel being terminated by the bulb at an end, the channel and the bulb containing a fluid, the fluid expanding and contracting along

the channel to a fluid length which is functionally related to a target temperature of the bulb at a target time, the thermometer body being adapted to be located in a subject body from where the fluid length is not visible at the target time, and thermometer body properties and fluid properties together making possible measurement of the fluid length outside of the subject body, ~~the thermometer implant~~, and wherein the thermometer body encloses a sequent channel and a sequent bulb, the sequent channel being terminated by the sequent bulb at an end, the sequent bulb and the sequent channel containing a sequent fluid, the sequent fluid expanding and contracting along the sequent channel to a sequent fluid length which is functionally related to a sequent target temperature of the sequent bulb at a sequent target time, the sequent fluid length being not visible at the target time, and sequent fluid properties making possible measurement of the sequent fluid length outside of the subject body.

5. (Canceled)

6. (Currently Amended) Thermometer implants comprising a thermometer body, the thermometer body enclosing a channel and a bulb, the channel being terminated by the bulb at an end, the channel and the bulb containing a fluid, the fluid expanding and contracting along the channel to a fluid length which is functionally related to a target temperature of the bulb at a target time, the thermometer body being adapted to be located in a subject body from where the fluid length is not visible at the target time, and thermometer body properties and fluid properties together making possible measurement of the fluid length outside of the subject body, ~~the thermometer implant~~, and wherein the channel is folded.

7. (Canceled)

8. (Currently Amended) Thermometer implants comprising a thermometer body, the thermometer body enclosing a channel and a bulb, the channel being terminated by the bulb at an end, the channel and the bulb containing a fluid, the fluid expanding and contracting along the channel to a fluid length which is functionally related to a target temperature of the bulb at a target time, the thermometer body being adapted to be located in a subject body from where the fluid length is not visible at the target time, and thermometer body properties and fluid properties together making possible measurement of the fluid length outside of the subject body, ~~the thermometer implant~~, the thermometer implant including a trigger mechanism which is remotely activated and which locks the fluid length so that the fluid length does not change after the trigger mechanism is activated.

9. (Original) The device of claim 4 wherein the channel and sequent channel form a contiguous channel, the contiguous channel having a movable piston riding in the contiguous channel dividing the fluid from the sequent fluid with a fluid length to sequent fluid length ratio at the target time being functionally related to a target temperature to sequent target temperature ratio at the target time.

10. (Canceled)

11. (Previously Presented) Thermometer implants comprising a thermometer body, the thermometer body enclosing a channel and a bulb, the channel being terminated by the bulb at an end, the channel and the bulb containing a fluid, the fluid expanding and contracting along the channel to a fluid position which is functionally related to a target temperature of the bulb at

a target time, the thermometer body being adapted to be located in a subject body from where the fluid position is not visible at the target time, and thermometer body properties and fluid properties together making possible determination of the fluid position outside of the subject body without requiring the use of a physical connection to the device from outside the subject body and wherein the thermometer implant includes at least one marker located on the thermometer body.

12. (Previously Presented) The device of claim 11 wherein at least one marker located on the thermometer body is adapted to calibrate a projected image of the fluid.

13. (Previously Presented) The device of claim 11 further comprising a sequent thermometer body, the sequent thermometer body enclosing a sequent channel and a sequent bulb, the sequent channel being terminated at one end by the sequent bulb, the sequent bulb and the sequent channel containing a sequent fluid, the sequent fluid expanding and contracting along the sequent channel to a sequent thermometer fluid position which is functionally related to a sequent target temperature of the sequent bulb at a sequent target time, the sequent thermometer body being adapted to be located in the subject body from where the sequent fluid is not visible at the sequent target time, and sequent thermometer body properties and sequent fluid properties together making possible determination of the fluid position outside of the subject body.

14. (Previously Presented) The device of claim 11 wherein the thermometer body encloses a sequent channel and a sequent bulb, the sequent channel being terminated by the sequent bulb at one end, the sequent bulb and the sequent channel containing a sequent fluid, the sequent fluid expanding and contracting along the sequent channel to a sequent fluid position

which is functionally related to a sequent target temperature of the sequent bulb at a sequent target time, the sequent fluid position being not visible at the target time, and sequent fluid properties making possible determination of the sequent fluid position outside of the subject body.

15. (Cancelled)

16. (Previously Presented) The device of claim 11 wherein the channel is folded.

17. (Previously Presented) The device of claim 11 wherein the subject body is in, and alternatively is intended for use in, a living human.

18. (Previously Presented) The device of claim 11 further comprising a trigger mechanism which is remotely activated and which locks the fluid position so that the fluid position does not change after the trigger mechanism is activated.

19. (Previously Presented) The device of claim 14 wherein the channel and sequent channel form a contiguous channel, the contiguous channel having a movable piston riding in the contiguous channel dividing the fluid from the sequent fluid with a fluid position to sequent fluid position ratio at the target time being functionally related to a target temperature to sequent target temperature ratio at the target time.

20. (Cancelled)

Remarks

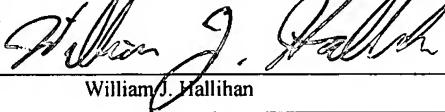
Claims 4, 6, and 8 have been amended to remove a typographical error from each of the claims to insure that they now comply with 35 USC §112.

In lieu of the foregoing remarks, all claims should be in condition for allowance. The undersigned attorney requests the opportunity to discuss any perceived problems with the claims, to further explain any of the points raised herein, and to discuss placing claims in condition for allowance. The undersigned can be reached through his direct phone number (312) 223-0010 extension 144. Please advise when you would be available for a telephone conference.

Respectfully submitted,

Certificate of Mailing

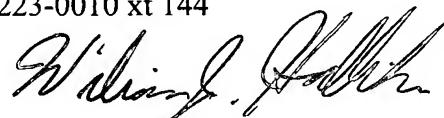
I hereby certify that, on April 19, 2005, this correspondence is being deposited with the U. S. Postal Service Via Express Mail-Label No.:EO 908 852 278 US in an envelope addressed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



William J. Hallihan

HALLIHAN INTELLECTUAL PROPERTY LAW, LTD
125 South Wacker Drive
Suite 2080
Chicago, Illinois 60606
312-223-0010 xt 144

By



William J. Hallihan, Reg. No. 39,210